UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,587	11/12/2003	Hideo Suzuki	393032019710	8984

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EXAMINER
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ART UNIT	PAPER NUMBER
2173	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/712,587	SUZUKI ET AL.
Office Action Summary	Examiner	Art Unit	
	TING ZHOU	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 June 2008</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>2,3,15,21 and 26-34</u> is/are pending in the application.
  4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>2,3,15,21 and 26-34</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  a)☐ All b)☐ Some * c)☐ None of:
    1.☐ Certified copies of the priority documents have been received.
    2.☐ Certified copies of the priority documents have been received in Application No. _____.
    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).
  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date <u>05/16/08</u>.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   The Request for Continued Examination (RCE) filed on 27 June 2008 under 37 CFR

1.53(d) based on parent Application No. 10/712,587 is acceptable and a RCE has been

established. An action on the RCE follows.

2.   The amendments filed on 27 June 2008, submitted with the filing of the RCE have been

received and entered. The applicant has added new claims 31-34. Claims 2-3, 15, 21 and 26-34

as amended are pending in the application.

Claim Objections

3.   Claim 21 is objected to because of the following informalities: The preamble of claim 21

recites "A machine-readable media storing data and programs that cause a computer system

containing a display for performing a performance data editing method comprising the steps of:";

it is suggested that the preamble be changed to -- A machine-readable media storing data and

programs that cause a computer system containing a display to perform a performance data

editing method comprising the steps of: -- for grammatical clarity purposes. Appropriate

correction is required.

Claim Rejections - 35 USC § 103

        The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

4.   Claims 2-3, 15, 21 and 26-34 are rejected under 35 U.S.C. 103(a) as being unpatentable

over "Emagic Notator Logic Sequencing Software (Macintosh)" by Jim Aikin (hereinafter

"Aikin"), Blumenau U.S. Patent 5,664,216 and Simborg et al. U.S. Patent 5,950,168 (hereinafter

"Simborg").

Referring to claims 2, 15 and 21, Aikin teaches a method, apparatus and computer

readable media comprising controlling the computer system to display a plurality of layers on a

screen of the display (sequencing software with several layers) (Aikin: pages 12—124, 127-128

and Figures 2-3), wherein each of the plurality of layers is assigned to a different type of

articulation to be added to a musical tone to be generated based on the performance data (adding

different icons representing different articulation to the layers) (Aikin: pages 12—124, 127-128

and Figures 2-3; in response to a user instruction, attaching an execution icon at a prescribed

position onto one of the plurality of players that is displayed on the screen of the display (icons

corresponding to the musical performance can be attached to each layer) (Aikin: pages 12—124,

127-128 and Figures 2-3), wherein the attached execution icon represents execution-related data

for adding, to the musical tone to be generated, a predetermined type of articulation to which the

one of the plurality of layers is assigned (Aikin: pages 12—124, 127-128 and Figures 2-3). In

these cited sections, Aikin describes how a user selects execution icons corresponding to execution-related data representing articulation used in music performance, i.e. pipe organ icon representing how the pipe organ, a musical instrument, performs from a palette of icons and places them on a layer, causing the corresponding data to be incorporated into the performance data being edited. For example, a user may select a pipes organ icon, which corresponds to how the performance is to be executed, and is therefore an execution icon. The musical notes are also execution icons pertaining to how music is to be played/executed. Although Aikin teaches adding/assigning icons representing a different type of articulation to each of the plurality of layers, Aikin fails to explicitly teach that the different type of articulation causes the musical tone to be generated in accordance with a specific performance technique. Blumenau teaches a graphical user interfaces that uses icons to transform audio data (Blumenau: column 2, lines 22-34) similar to that of Aikin. In addition, Blumenau further teaches adding a different type of articulation to a musical tone to be generated, the different type of articulation causes the musical tone to be generated in accordance with a specific performance technique (icons are placed on the screen to transform a musical tone, i.e. audio data; for example, icons can represent filter icons that affect audio performance techniques/process, i.e. the technique of bending audio data) (Blumenau: column 2, lines 22-57, column 5, lines 18-20 and column 8, lines 8-35). It would have been obvious to one of ordinary skill in the art, having the teachings of Aikin and Blumenau before him at the time the invention was made, to modify the attachment of an execution icon to a layer for generating a musical tone of Aikin to include the placement of icons for evoking specific performance techniques of the musical tone, as taught by Blumenau. One would have been motivated to make such a combination in order to provide a graphical

environment that allows editing of audio data in a much more intuitive manner (Blumenau:

column 2, lines 15-20 and 58-62). However, Aikin and Blumenau fail to explicitly teach

controlling the computer system to display a small-scale display option for each individual layer

of the plurality of layers; in response to user selection of a small-scale display option for an

individual layer, providing an instruction to control the individual layer to be subjected to small-

scale display; and controlling the computer system to perform the small-scale display for the

individual layer in response to the instruction. Simborg teaches the display of a plurality of

layers (as shown by the "Asthma" layer, "Vital Signs" layer, etc. in Figure 1) similar to that of

Aikin and Blumenau. In addition, Simborg further teaches controlling the computer system to

display a small-scale display option for each individual layer of the plurality of layers (displaying

an arrow, such as the arrow 24 shown in Figure 1) (Simborg: column 3, lines 14-30); in response

to user selection of a small-scale display option for an individual layer, providing an instruction

to control the individual layer to be subjected to small-scale display (users can select the small-

scale option for the "Vital Signs" layer, causing the layer to be displayed in small-scale, i.e. in

zipped form) (Simborg: column 3, lines 43-50); and controlling the computer system to perform

the small-scale display for the individual layer in response to the instruction (users can select the

small-scale option for the "Vital Signs" layer, causing the layer to be displayed in small-scale,

i.e. in zipped form) (Simborg: column 3, lines 14-50). It would have been obvious to one of

ordinary skill in the art, having the teachings of Aikin, Blumenau and Simborg before him at the

time the invention was made, to modify the editing of the layers of Aikin and Blumenau to

include the option to display the layers in small-scale, as taught by Simborg. One would have

been motivated to make such a combination in order to maximize the use of screen space so that

information not currently desired can be minimized or collapsed to allow users to view the desired information more clearly.

Referring to claim 3, Aikin, as modified, teach restoring the individual layer from the small-scale display to normal-scale display in response to a mouse operation being effected on a prescribed portion of the layer (users can select the arrow with the mouse to restore the normal scale display, i.e. unzip the layer so that all of the information can be displayed) (Simborg: column 3, lines 14-50).

Referring to claim 26, Aikin, as modified, teach wherein the plurality of layers are vertically arranged on the display screen (as shown in Figure 3 of Aikin, the layers are arranged vertically on top of one another).

Referring to claim 27, Aikin, as modified, teach wherein one or plural execution icons are arranged in a layer in a direction from the left to the right on the display screen in accordance with progress of the performance data (as shown from Figure 2 of Aikin, the musical notes are displayed from left to right to show a progression of the music).

Referring to claim 28, Aikin, as modified, teach wherein each layer is displayed as an execution icon layer corresponding to the execution-related data (the instrument icons corresponding to how the music is going to be played, are displayed in a layer, i.e. the instruments are displayed in its own window/menu) (Aikin: page 123).

Referring to claim 29, Aikin, as modified, teach wherein the execution icon layer contains at least one of a tempo icon layer, a dynamics icon layer, a joint icon layer, a modulation icon layer, an accent icon layer, an attack icon layer, and a release icon layer (as shown in Figure 3, the displayed layers include a "Modulation" layer) (Aikin: page 123).

Referring to claim 30, Aikin, as modified, teach wherein when the execution icon
attached to a layer is edited, edited content is reflected onto the performance data (icons can be
edited, such as manipulating the location of the icons, thereby causing the audio data to be
edited) (Blumenau: column 1, lines 18-22).

Referring to claims 31 and 33, Aikin, as modified, teach wherein the small-scale display
option for each individual layer is displayed in each of the individual layers (as shown in Figure
1 of Simborg, the arrows are displayed within each of the "Asthma, "Vitals signs", etc. layers).

Referring to claims 32 and 34, Aikin, as modified, teach wherein the small-scale display
option is displayed on a display option menu (as shown in Figure 2 of Simborg, the layers, such
as "Asthma", "Vitals Signs", etc. comprising the small-scale options arrows are in a hierarchical
menu format; for example, the arrow associated with "Lungs" is optionally displayed under the
arrow associated with "Asthma").

Response to Arguments

5.   Applicant's arguments with respect to claims 2-3, 15, 21 and 26-34 have been considered
but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to TING ZHOU whose telephone number is (571)272-4058. The
examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571) 272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TZ
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Primary Examiner, Art Unit 2173